IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 05-cv-329-TCK-SAJ**
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

STATE OF OKLAHOMA'S MEMORANDUM IN OPPOSITION TO DEFENDANT CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC'S MOTION TO COMPEL

COMES NOW Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA ("the State"), and, for its objection and response to Defendant Cargill, Inc. and Cargill Turkey Production, LLC's Motion to Compel Discovery [DKT # 902], states as follows:

I. INTRODUCTION

On August 11, 2006, Cargill served the State with its First Interrogatories and Requests for Production of Documents to Plaintiffs. This set of discovery propounded interrogatories numbered 1-30. On that same date, Cargill Turkey also served the State with its First Interrogatories and Requests for Production of Documents to Plaintiffs. The Cargill Turkey set of discovery propounded interrogatories numbered 1-41.

On August 14, 2006, the State informed Cargill and Cargill Turkey that the number of interrogatories in each set of interrogatories exceeded twenty-five, the number allowed by

Federal Rule of Civil Procedure 33(a). (Letter from D. Sharon Gentry to Theresa Noble Hill, Aug. 14, 2006 [Ex. 1].) The State requested that Cargill and Cargill Turkey withdraw, revise, and resubmit the Interrogatories in compliance with federal and local rules. *Id.*

On August 22, 2006, Cargill and Cargill Turkey served the State with their respective Amended First Interrogatories and Requests for Production of Documents to Plaintiffs. Cargill's Amended First Set propounds interrogatories numbered 1-17 [Ex. 2]. Cargill Turkey's Amended First Set propounds interrogatories numbered 1-18 [Ex. 3]. These "amended" interrogatories, however, still contain separate, discrete subparts which result in them greatly exceeding the limit of twenty-five interrogatories. Accordingly, on August 28, 2006, the State again wrote to Cargill and Cargill Turkey pointing out that many of the interrogatories contained separate and discrete subparts that should be counted as separate interrogatories. (Letter from D. Sharon Gentry to Theresa Noble Hill, Aug. 28, 2006 [Ex. 4].) The State explained, for example, that:

> Each of Cargill Inc.'s Amended Interrogatories asks the State to provide information for 'each Cargill entity,' of which there are two. In addition, some Interrogatories ask the 'factual and legal basis' for the State's claims, as well as the names of witnesses. Others ask for the factual basis only, but again, those also request names of witnesses. Each Interrogatory that contains such language can fairly be interpreted to constitute five or six separate questions.
>
> Cargill Turkey's Amended Interrogatories are also excessive. For example, Interrogatory No. 3 contains seven itemized subparts, and requests dates, facts, witnesses and documents for each. Other interrogatories are similarly constructed.

Id. The State again requested Cargill and Cargill Turkey to "withdraw, revise, and resubmit its Amended First Interrogatories in compliance with federal and local rules." *Id.* As required by the Local Rules, the parties met and conferred on this issue on August 30, 2006, but were unable to reach agreement on the matter. Cargill and Cargill Turkey filed their Motion to Compel, or in the alternative for leave to increase the number of interrogatories permitted to be served on

September 1, 2006 ("Motion"). The State now responds to Cargill's and Cargill Turkey's Motion.

II. ARGUMENT

A. The State's Proper Procedural Recourse Is To Move For a Protective Order

"When a party believes that another party has asked too many interrogatories, the party to which the discovery has been propounded should object to all interrogatories or file a motion for protective order." *Allahverdi v. Regents of the University of New Mexico*, 228 F.R.D. 696, 698 (D.N.M. 2005); *see also Herdlein Technologies, Inc. v. Century Contractors, Inc.*, 147 F.R.D. 103, 104-05 (W.D.N.C. 1993) (party claiming opponent exceeded number of interrogatories "could have avoided much of the burden of responding to these interrogatories if it had moved the Court for a protective order prior to answering any of the interrogatories on this basis"). Courts have held that if a party served with what it believes is an excessive number of interrogatories answers some of the interrogatories but not others, the answering party waives the objection as to excessive number. *Allahverdi*, 228 F.R.D. at 698; *Herdlein*, 147 F.R.D. at 105.

The reason for requiring the served party to object or file a motion to compel instead of selectively answering interrogatories is to prevent the served party from strategically omitting the most prejudicial information asked for in the interrogatories. *Herdlein*, 147 F.R.D. at 104. This allows the propounding party to have interrogatories of its own choosing answered fully and completely. *Herdlein*, 147 F.R.D. at 104. The State is filing contemporaneously herewith a motion for protective order to protect it from the burden of responding to the excessive number of interrogatories propounded by the Cargill entities.

B. Cargill and Cargill Turkey's Interrogatories Exceed the Limit

The number of interrogatories served on the State by Cargill and Cargill Turkey exceeds the limits allowed under the rules, and the interrogatories are therefore improper.

1. Discrete, Separate Subparts Must be Counted Separately

Federal Rule of Civil Procedure 33(a) provides that "any party may serve upon any other party written interrogatories, not exceeding twenty-five in number including all discrete subparts, to be answered by the party served." Fed. R. Civ. P. 33(a). The Advisory Committee Notes to Rule 33(a) provide further explanation by noting that parties cannot evade the number limitation by joining several subparts into one interrogatory if those subparts ask about discrete, separate subjects. Fed. R. Civ. P. 33(a) Advisory Committee Notes to the 1993 Amendments, subdivision (a).

In addition, LCvR 33.1 is consistent with Rule 33(a) and the accompanying Notes by stating that subparts within numbered interrogatories will be counted as separate interrogatories. The Local Rule does allow that interrogatories "inquiring as to the existence, location and custodian of documents or physical evidence" will be construed as a single interrogatory. This exception clarifies that all other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories. As one case relied upon by the Cargill entities noted, local rules are a checkpoint beyond which a party may not proceed without evidencing the good cause which should be a precedent to any discovery, and that discovery is a litigating tool which should be used with discretion. *Lykins v. Attorney General*, 86 F.R.D. 318, 319 (E.D. Va. 1980). Consequently, the Local Rule requires, as does the Federal Rule and the case law, that separate and discrete subparts or subdivisions will be construed as separate interrogatories.

Because there is no definition of the term "discrete subparts" in Rule 33, the federal courts have been called upon to interpret it. In *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684 (D. Nev. 1997), the court determined that a subpart was part of the primary interrogatory and not discrete if it was "logically or factually subsumed within and necessarily related to" the primary question. *Kendall*, 174 F.R.D. at 685. If, on the other hand, the first question could be answered fully without answering the second question, and the second question was totally independent of the first, then the subpart was a discrete separate question. *Kendall*, 174 F.R.D. at 685. The key is the subpart's ability to stand alone. *Kendall*, 174 F.R.D. at 685. Similarly, if separate calculations are needed to respond to the subparts, then they are discrete or separate, even though the subject of the two calculations may be related. *Kendall*, 174 F.R.D. at 686.

Cargill and Cargill Turkey rely upon *Kendall* to support their approach. Motion at 4. However, *Kendall* undermines rather than supports Cargill's and Cargill Turkey's position. The *Kendall* court found interrogatories asking about (1) a party's qualifications and (2) about supporting documents to contain two questions, because the second question is totally independent of the first and not "factually subsumed within and necessarily related to the primary question." *Kendall*, 174 F.R.D. at 686. Similarly, the Cargill entities rely upon *Nyfield v. Virgin Islands Telephone Corp.*, 200 F.R.D. 246 (D.V.I. 2001), even though in that case the court found that interrogatories asking about (1) receipt of benefits and (2) efforts to comply with the terms of those benefits constituted two questions. The court also found that interrogatories asking about (1) elimination of job positions or about job transfers and also asking (2) about the identities of persons involved in those decisions constituted two questions. *Nyfield*, 200 F.R.D. at 248. In each instance, the courts easily recognized independent questions joined in a single

interrogatory. As demonstrated below, Cargill and Cargill Turkey have asked questions with far more subparts than these examples, frequently asking about factual assertions against each of the two Cargill entities, legal positions, and supporting witnesses in a single numbered interrogatory.

Courts have also used the "common theme" approach in determining if the subparts of an interrogatory are "discrete." Referring to Wright and Miller's treatise on Federal Practice for guidance, the court in *Williams v. Board of County Commissioners of Wyandotte County*, 192 F.R.D. 698, 701 (D. Kan. 2000), stated that interrogatories concerning a common theme should be considered one interrogatory:

> It would appear that an interrogatory containing subparts directed at eliciting details concerning the common theme should be considered a single question, although the breadth of an area inquired about may be disputable. On the other hand, an interrogatory with subparts inquiring into discrete areas is more likely to be counted as more than one for purposes of the limitation." 8A Charles A. Wright et al., *Federal Practice and Procedure* § 2168.1, at 261 (2d ed. 1994).

Cargill and Cargill Turkey based their arguments on the "related question" or "common theme" approach, Motion at 4-6, but then fail to apply those approaches in their actual Interrogatory questions. Indeed, a proper application of the "related question" or "common theme" approach reflects that their Interrogatories regularly combine questions about discrete areas in a single numbered interrogatory.

The Cargill entities rely upon *Clark v. Burlington Northern Railroad*, 112 F.R.D. 117 (N.D. Miss. 1986), for the proposition that their many subparts may actually narrow their Interrogatories. Motion at 4-5. In *Clark*, the court found that an interrogatory asking for several details about a train involved in a crash could really be summed up into the single question: "describe the train." *Clark*, 112 F.R.D. at 119. However, as the Court will see, the actual

Interrogatories as propounded by Cargill and Cargill Turkey often have subparts which stand alone, and are not questions of the "describe-the-train" sort.

Under any standard, the Cargill entities have propounded too many interrogatories.

2. Many Of Cargill's and Cargill Turkey's Interrogatories Contain Embedded Separate, Discrete Questions

Both Cargill's and Cargill Turkey's Interrogatories exceed the limit of 25 discrete subparts. By way of example, eleven of Cargill's seventeen Interrogatories,[1] and four of Cargill Turkey's eighteen Interrogatories,[2] follow the same form:

> **Interrogatory No. [ ]:** Separately for each Cargill entity at issue, state with particularity the factual and legal basis for the allegation contained in ¶ [ ] of Your Amended Complaint that [statement of allegation in the Complaint] and identify every witness upon whom You will rely to establish each fact.

In their "Definitions" at the beginning of their Interrogatories, Cargill and Cargill Turkey define "Cargill, Inc." or "Any Cargill Entity" as "Cargill, Inc. and its affiliated companies (including but not limited to Cargill Turkey Production, LLC and Cargill Meat Solutions Corporation), subsidiaries or divisions, and any employee, attorney, agent or other representative thereof." [Ex. 2 & 3]

Each of these "factual and legal basis" Interrogatories contains at least six discrete, separate subparts: (1) Cargill, Inc. factual issues; (2) Cargill Turkey factual issues; (3) Cargill, Inc. legal issues; (4) Cargill Turkey legal issues; (5) identification of every witness for Cargill, Inc. factual issues; and (6) identification of every witness for Cargill Turkey factual issues. Each of these six questions is logically separate from each of the others, and could be answered without answering any of the others. They are not "factually subsumed within and necessarily

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[1] Cargill Interrogatories 1, 2, 3, 4, 9, 10, 11, 13, 15, 16, and 17 use this pattern.

[2] Cargill Turkey Interrogatories 11, 12, 13, and 14 use this pattern.

related to the primary question." *Kendall,* 174 F.R.D. at 686. Nor are they "describe-the-train" questions in which each subpart refers to some common theme, unless the facts and the law are the same thing, and both the facts and the law are the same thing as Cargill and Cargill Turkey, and all four of them together are the same thing as the witnesses. Clearly, this is not the case, and these subparts are truly discrete.

Thus, Cargill's eleven interrogatories following this pattern, each with six discrete subparts, constitute 66 discrete subparts, while Cargill Turkey's four interrogatories with six such subparts constitute 24 discrete subparts. Cargill's Interrogatory 15, based on this pattern, asks about the allegations from four separate paragraphs of the Amended Complaint, compounding this excess even further.

Both Cargill and Cargill Turkey use another similar form of interrogatory, asking the State "for each Cargill entity" to "state completely and in detail the facts" of certain of the State's allegations and "identify every witness upon whom You will rely to establish each fact." This pattern of interrogatory has four logically independent and discrete subparts: Cargill facts, Cargill Turkey facts, Cargill fact witnesses and Cargill Turkey fact witnesses. Cargill uses this pattern six times,[3] while Cargill Turkey uses it four times.[4] Consequently, Cargill's six interrogatories with four discrete subparts each constitute an additional 24 discrete subparts, while Cargill Turkey's four interrogatories with four discrete subparts each constitute an additional 16 discrete subparts.

The fact that Cargill has not numbered the subparts of its interrogatories does not change the fact that, if the interrogatories require discrete pieces of information, the "interrogatories are

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[3] Cargill Interrogatories 5, 6, 7, 8, 12, and 14 use this pattern.

[4] Cargill Turkey Interrogatories 15, 16, 17, and 18 use this pattern.

to be counted as if the subparts were specifically itemized." *Prochaska & Assocs. v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 155 F.R.D. 189, 191 (D. Neb. 1993). Indeed, one of the cases Cargill and Cargill Turkey rely upon would count such Interrogatories as containing discrete, separate subparts: the basic questions and then the identity of witnesses. *See Nyfield*, 200 F.R.D. at 248 (ruling that an interrogatory that asked both about the reason for elimination of plaintiff's position and then the identity of those involved in the decision making process would be counted as two questions).

Cargill and Cargill Turkey are also seeking all evidence about many legal claims the State has asserted against Defendants. (Cargill Interrogatory No. 10 (CERCLA), No. 11 (Solid Waste Disposal Act), No. 13 (nuisance under Oklahoma law, without limiting to public or private nuisance), No. 14 (nuisance under federal law), No. 16 (trespass); and Cargill Turkey Interrogatory No. 17 (unjust enrichment).) But a single interrogatory seeking evidence supporting all elements of a legal claim is overly broad. *Security Insurance Co. of Hartford v. Trustmark Insurance Co.*, 2003 WL 22326563, *1 (D. Conn. Mar. 7, 2003). "[A] scope of interrogatory defined by a 'common theme' is not sufficiently expansive to include an entire claim, for if such were the case a party could simply pose interrogatories requiring that the opposing party describe in detail all evidence supporting the allegations in Count X. Under no theory would such an interrogatory be proper." *Security Insurance*, 2003 WL 22326563, *1 (emphasis added). Interrogatories that seek information about legal claims must be broken down by elements, and the subparts considered distinct, "one for each element . . . which seek information as to evidence . . . supporting the particular element." *Security Insurance*, 2003 WL 22326563, at *1.

Likewise, by way of example, Cargill Turkey has propounded the following Interrogatories that clearly contain discrete, separate subparts that should be counted as more than one interrogatory:

> **Interrogatory No. 7:** Please describe the trophic state of each lake or reservoir within the Illinois River Watershed for each season of the year since 1952, and in doing so, state all evidence and identify all documents that relate to any such trophic state, including, but not limited to sampling, analysis, reports, studies, findings, recommendations, and the cause(s) for any observed eutrophication.

This Interrogatory asks for (1) a description of the trophic state of each lake or reservoir by season for a period of fifty-four years, then asks for (2) a description of all evidence, (3) the identification of all documents, and then (4) the causes for any eutrophication. Each of these four separate questions is logically separate and independent from each of the others. Each could be answered fully without answering any of the others. Again, even under a case relied upon by Cargill and Cargill Turkey themselves, this Interrogatory must be considered to encompass four questions, not even considering the request for information on each of four seasons for a fifty-four year period for each lake or reservoir in the IRW. *Kendall*, 174 F.R.D. at 686. (holding that since "the first question asks for a description of qualifications" and "[t]he second question asks for a description of documents," the Interrogatory is an example "of independent questions being improperly combined into one interrogatory"); *see also Willingham v. Ashcroft*, 226 F.R.D. 57, 60 (D.D.C 2005) (ruling separate request for documents in an interrogatory counts as a separate, discrete question); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004) (ruling that subparts of an interrogatory that first demand information and then demand the documents pertaining to the information count as separate interrogatories).

Two final examples further illustrate the excessive number of discrete subparts. Cargill Turkey served the following Interrogatory No. 3:

Interrogatory No. 3: Please state the date (or year, if an exact date is not known) when You first became aware that poultry industry operations might be a potential source of:

a. phosphorus / phosphorus compounds
b. nitrogen / nitrogen compounds
c. arsenic / arsenic compounds
d. zinc / zinc compounds
e. copper / copper compounds
f. hormones; and/or
g. microbial pathogens

in the Illinois River Watershed and discuss with particularity the facts, witnesses and/or documents leading to Your awareness.

This Interrogatory is a poster child for a question containing multiple, separate questions within. First, the interrogatory asks for dates of awareness the poultry industry might be a source of seven different pollutants. Second, it asks for the supporting facts "with particularity." Third, it asks for identification of witnesses leading to the awareness of each of the different pollutants. Fourth, it asks for the identification of documents leading to the awareness of each of the different pollutants. Each of these four separate questions is logically separate and independent from each of the others. Each could be answered fully without answering any of the others. Thus, this Interrogatory contains at least four and up to twenty-eight separate questions when considering the seven discrete constituents for which each of the four questions are to be answered. Similarly, Cargill Turkey's Interrogatory No. 4 asks for (1) the date the State became aware that elevated levels of pollutants caused eleven discrete kinds of harm, (2) the facts, stated with particularity, (3) the witnesses leading to the State's awareness, and (4) the documents leading to that awareness. Once again, this constitutes at least four discrete questions, and up to forty-four if the Court considers separately each of the eleven named forms of harm for each constituent. Clearly, these Interrogatories are an attempt to evade the limitation set by Rule 33(a).

This is not a close case in which a defendant has just barely stepped over the line. Cargill has put forward at least 90 discrete subparts, while Cargill Turkey has put forward at least 74 (and possibly as many as 138 if the constituents and harms of Interrogatories 3 and 4 are counted separately). What is more, because much of the information sought will not appropriately be available until the State provides the reports of its testifying experts, this excessive exercise in discovery by interrogatory at this juncture will yield only a fraction of the ultimately available information at considerable expense.

C. Cargill and Cargill Turkey Have Not Justified Their Request for Leave to Serve Additional Interrogatories.

Cargill and Cargill Turkey have made an alternative request. If the Court determines that Cargill's Amended Interrogatories as propounded exceed the number allowed by the federal and local rules, the Court should then increase the number due to the alleged complexity of the State's case. This request should be denied.

First, by making the request, Cargill and Cargill Turkey have tacitly admitted that when properly counted, their respective interrogatories have exceeded the numerical limit. The implication is clear; if they cannot force the State to respond to their amended interrogatories as propounded, then Cargill and Cargill Turkey will ask the Court to change the rule. The legal authority Cargill and Cargill Turkey have cited for their request does not support their position. In fact, it actually is more supportive of the State's position.

In *Duncan v. Paragon Publishing, Inc.*, 204 F.R.D. 127 (S.D. Ind. 2001) (which Cargill cites), the court denied the plaintiff's motion for leave to file more than twenty-five interrogatories and granted the defendant's motion for protective order. In *Duncan*, the plaintiff sought permission to serve ninety-nine interrogatories. The defendant objected to the request

and asked for a protective order on the grounds that increasing the number would result in oppressive and burdensome discovery. The defendant also noted that the number of interrogatories actually totaled 178, if subparts were included. The court pointed out that Fed. R. Civ. P. 33(a) expressly forbids a party from serving more than twenty-five interrogatories "[w]ithout leave of court or written stipulation." *Duncan*, 204 F.R.D. at 128, (quoting *Walker v. Lakewood Condominium Owners Assoc.*, 186 F.R.D. 584, 585 (C.D.Ca. 1999), in turn quoting Rule 33(a).) The *Duncan* court goes on to point out that responding to interrogatories is inherently expensive and burdensome, and can be used as a means of harassment. *Duncan*, 204 F.R.D. at 128. Whether leave should be granted to serve additional interrogatories is governed by Fed. R. Civ. P. 26(b)(2). The *Duncan* court makes a case by case analysis in determining whether a party may exceed the allotted number of interrogatories set forth in Rule 33, weighing the burdensome duplication in a given circumstance. *Duncan*, 204 F.R.D. at 128, (quoting from *8A Wright Miller & Marcus, Federal Practice and Procedure* § 2163 (2nd ed. 1994).) The party seeking leave must set forth a "particularized showing" to exceed the limit of twenty-five interrogatories. *Duncan*, 204 F.R.D. at 128, (quoting *Archer Daniels Midland Co. v. Aon Risk Services, Inc.*, 187 F.R.D. 578 (D. Minn. 1999).)

The court in the *Archer Daniels* case discussed this requirement in denying a request by the defendant for an increase in the number of interrogatories served on the plaintiff, stating that the request was "bereft of any showing that specific Interrogatories are required if [defendant] is to properly defend itself against [plaintiff's] claims." *Archer Daniels*, 187 F.R.D. at 587.

In *Capacchione v. Charlotte-Mecklenburg Schools*, 182 F.R.D. 486 (W.D.N.C.1998), the court again denied a request to exceed the number of interrogatories allowed by rule. "Capacchione's moving brief does not adequately set forth why up to fifty additional

interrogatories are needed, nor does the brief explain the nature or subject matter of the additional interrogatories." *Capacchione*, 182 F.R.D. at 482. The court goes on to instruct the movant that it can re-file its request provided that the movant sets forth the interrogatories to be served and makes an express showing of good cause, i.e., "that the benefits of further discovery by interrogatories outweigh the burdens imposed on the responding party." *Capacchione*, 182 F.R.D. at 482.

Cargill and Cargill Turkey have failed to make a particularized showing that it needs to exceed the number of interrogatories allowed by rule. First, Cargill and Cargill Turkey each has twenty-five interrogatories. Since both entities are represented by the same counsel and have admitted in the Definitions section of their respective amended interrogatories that they are "affiliated companies", the Cargill entities have a total of fifty interrogatories which can fairly be served on the State. Further, Cargill and Cargill Turkey have the advantage of being privy to the State's responses to discovery requests which have been propounded by other poultry integrator defendants in the case, with whom they are doubtlessly jointly defending the case. Given the number of poultry integrator defendants in this action and their apparent joint defense of it, there is no justification for Cargill's and Cargill Turkey's request.

Another case cited by Cargill and Cargill Turkey, *Lykins v. Attorney General of the United States*, 86 F.R.D. 318 (E.D. Va. 1980), also supports the State's position. In *Lykins*, the court denied the plaintiff's request to file more than thirty interrogatories, by referring to a local rule which required a showing of good cause before the court would increase the number allowed by rule. The court noted that rather than attempting to show "good cause" the plaintiff simply alleged the presence of "multiple issues" and the "complex nature" of the case. *Lykins*,

86 F.R.D. at 318. "If the strictures of [the rule] may be avoided by such ritualistic recitations then the adoption of the Rule was a waste of time." *Lykins*, 86 F.R.D. at 318.

In the present case, Cargill and Cargill Turkey have made a similar recitation that the State's lawsuit is "nothing if not complex and technical." Motion at 7. They then go on to set forth details about the length of the First Amended Complaint and the number of causes of action it includes. However, Cargill and Cargill Turkey fail to show how the allegedly "complex and technical" nature of this case translates specifically into a need for more interrogatories. In addition, Cargill and Cargill Turkey fail to point out that allegations not unlike those made by the State have been defended by Cargill in past litigation, including the *City of Tulsa* case, which was litigated in this very district. Having litigated similar issues before, Cargill should have a much better grasp on the information it seeks and should be able to tailor its interrogatories accordingly. Clearly, the "good cause" standard relied upon by Cargill and Cargill Turkey in its own brief has not been met.

III. CONCLUSION

WHEREFORE, premises considered, the State requests that the Court deny Cargill and Cargill Turkey's motion to compel, and further deny their request for leave to serve interrogatories exceeding in number those allowed by the Federal and Local Rules.

Respectfully submitted,

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September 19, 2006

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2006, I electronically transmitted the attached document to the following:

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